

CALIFORNIA COASTAL COMMISSION

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Hearing Date: January 11, 2006
Commission Action:

**W8e****STAFF REPORT: REGULAR CALENDAR****APPLICATION NUMBER:** 5-05-245**APPLICANT:** Portofino Hotel Partners, LP**AGENT:** Scott R. Vokey, Noble House Hotels & Resorts**PROJECT LOCATION:** 260-270 Portofino Way, King Harbor Mole C, City of Redondo Beach, Los Angeles County.**PROJECT DESCRIPTION:** Renovate an existing 163-room waterfront hotel, reconfigure the access road and surface parking lot, and reconstruct an existing marina (reducing the number of slips from 232 to 179).

Water Area	266,410 square feet
Land Area	235,825 square feet
Building Coverage	55,560 square feet
Pavement Coverage	151,761 square feet
Landscape Coverage	28,504 square feet
Parking Spaces	369/322 (existing/proposed)
Zoning	Waterfront
Plan Designation	Commercial Recreation
Ht above final grade	50 feet

LOCAL APPROVALS: City of Redondo Beach City Council Resolution No. CC-0504-36 (Conditional Use Permit), 4/5/2005; Harbor Commission Design Review, 1/10/2005.**SUMMARY OF STAFF RECOMMENDATION**

The proposed development is situated on State Tidelands within the Commission's original jurisdiction. Staff is recommending that the Commission **APPROVE** a coastal development permit for the proposed development with special conditions relating to the protection of marine resources, public access and water quality. The recommended conditions require the permittee to: survey the marina for eel grass beds and caulerpa toxic algae prior to the start of reconstruction, develop and implement a water quality management plan for the marina, provide a drainage plan for the surface parking area that includes Best management Practices to protect water quality, assume the risks of the development, and revise the project plans in order to preserve existing public parking on Mole C. The applicant agrees with the recommendation, except for the requirement to revise the plan to preserve public parking. **See Page Two for the motion** to carry out the staff recommendation.

SUBSTANTIVE FILE DOCUMENTS:

1. City of Redondo Beach certified Local Coastal Program, 9/11/2003.
2. Eelgrass & Caulerpa Survey and Essential Fish Habitat Assessment for Portofino Marina, by EcoSystems Management Associates, Inc. 1/4/2005.
3. Essential Fish Habitat Assessment for Portofino Marina, by JNE & Associates, Inc. 1/10/2005.
4. California Dept. of Fish & Game Letter for Portofino Hotel and Yacht Club Renovation, Redondo Beach, 8/16/2005.
5. California Regional Water Quality Control Board, Water Quality Certification File No. 05-160, November 2005.
6. U.S. Army Corps of Engineers Permit Application, Project No. 2005-01721-KW.
7. City of Redondo Beach Amended Lease Agreement with Portofino Hotel Partners, LP, 2/18/1997.
8. Coastal Development Permit 5-87-371 (Portofino Partners Restaurant/Hotel Add'n).
9. Coastal Development Permit 5-88-697 (City of Redondo Beach – Mole C Splashwall).
10. Coastal Development Permit 5-02-329 (Portofino Marina - G Dock).
11. Coastal Development Permit Amendment 5-02-361-A1 (Long Beach Downtown Shoreline Marina Renovation).
12. Coastal Development Permit 5-01-143 (Marina Two Renovation, Marina del Rey).

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution to **APPROVE** the coastal development permit application with special conditions:

MOTION: *"I move that the Commission approve with special conditions Coastal Development Permit 5-05-245 per the staff recommendation."*

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

I. Resolution: Approval with Conditions

The Commission hereby **APPROVES** a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. Standard Conditions

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. Special Conditions

1. Permit Compliance

Coastal Development Permit 5-05-245 permits only the development expressly described and conditioned herein. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions. Any deviation from the approved plans must be submitted for review by the Executive Director to determine whether an amendment to this coastal development permit is required. No changes to the approved development shall occur without a Commission amendment to this coastal development permit or a new coastal development permit, unless the Executive Director determines that no amendment or new permit is required.

2. Revised Plans

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, a revised project plan that deletes the proposed 927 square foot meeting room and swimming pool pad from the project in order to preserve existing public parking on the site. The parking lot area proposed to be converted to a swimming pool pad shall be designed to provide short-term marina parking for the loading and unloading of boaters' gear.

3. Demolition/Construction Responsibilities and Debris Removal

By acceptance of this permit, the applicant agrees that the proposed project shall be conducted in a manner that protects marine resources and water quality pursuant to the implementation of the following Best Management Practices (BMPs):

- A. No demolition/construction materials, equipment, debris, or waste shall be placed or stored where it may be subject to wave, wind, or rain erosion and dispersion.
- B. Staging and storage of demolition/construction machinery and storage of debris shall occur landward of the bulkhead, on impervious surfaces only.
- C. Any and all debris resulting from demolition/construction activities shall be removed from the shoreline and harbor area and disposed of as soon as possible.
- D. The permittee shall dispose of all demolition and construction debris resulting from the proposed project at an appropriate location outside the coastal zone. If the disposal site is located within the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place.
- E. Machinery or demolition/construction materials not essential for the project are prohibited at all times in the subtidal and intertidal zones.
- F. Where permitted, disturbance to the ocean bottom and intertidal areas shall be minimized. Jetting for the installation of new piles is not permitted.
- G. Silt curtains shall be utilized to control turbidity during placement and removal of all piles.
- H. Floating booms shall be used to contain debris discharged into coastal waters and any debris discharged will be removed as soon as possible but no later than the end of each day.
- I. Divers shall recover non-buoyant debris discharged into coastal waters as soon as possible after loss.
- J. Erosion control/sedimentation BMPs shall be used to control sedimentation impacts to coastal waters during project staging and demolition. BMPs shall include a pre-construction meeting to review procedural and BMP guidelines.
- K. The use of creosote treated wood is prohibited.
- L. At the end of the demolition/construction period, the permittee shall have divers inspect the project area and ensure that no debris, trash or construction material has been left on the shoreline or in the water, and that the project has not created any hazard to navigation.

4. Caulerpa Taxifolia Pre-Construction Survey

- A. No earlier than ninety days nor later than thirty days prior to commencement or re-commencement of any development authorized under this coastal development permit (the "project"), the applicant shall undertake a survey of the project area and a buffer area at least ten meters beyond the project area to determine the presence of the invasive alga *Caulerpa taxifolia*. The survey shall include a visual examination of the substrate.
- B. The survey protocol shall be prepared in consultation with the Regional Water Quality Control Board, the California Department of Fish and Game, and the National Marine Fisheries Service.
- C. Within five business days of completion of the survey, the applicant shall submit the survey:
 - 1. For the review and approval of the Executive Director; and,

2. To the Surveillance Subcommittee of the Southern California Caulerpa Action Team (SCCAT). The SCCAT Surveillance Subcommittee may be contacted through William Paznokas, California Department of Fish & Game (858/467-4218) or Robert Hoffman, National Marine Fisheries Service (562/980-4043).
- D. If *Caulerpa taxifolia* is found within the project or buffer areas, the applicant shall not proceed with the project until 1) the applicant provides evidence to the Executive Director that all *C. taxifolia* discovered within the project and/or buffer area has been eliminated in a manner that complies with all applicable governmental approval requirements, including but not limited to those of the California Coastal Act, or 2) the applicant has revised the project to avoid any contact with *C. taxifolia*. No revisions to the project shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.
5. Eelgrass Survey
 - A. Pre Construction Eelgrass Survey. A valid pre-construction eelgrass (*Zostera marina*) survey shall be completed during the period of active growth of eelgrass (typically March through October). The pre-construction survey shall be completed prior to the beginning of construction and shall be valid until the next period of active growth. The survey shall be prepared in full compliance with the "Southern California Eelgrass Mitigation Policy" Revision 8 (except as modified by this special condition) adopted by the National Marine Fisheries Service and shall be prepared in consultation with the California Department of Fish and Game. The applicant shall submit the eelgrass survey for the review and approval of the Executive Director within five (5) business days of completion of each eelgrass survey and in any event no later than fifteen (15) business days prior to commencement of any development. If the eelgrass survey identifies any eelgrass within the project area which would be impacted by the proposed project, the development shall require an amendment to this permit from the Coastal Commission or a new coastal development permit.
 - B. Post Construction Eelgrass Survey. If any eelgrass is identified in the project area by the survey required in Section A of this condition above, within one month after the conclusion of construction, the applicant shall survey the project site to determine if any eelgrass was adversely impacted. The survey shall be prepared in full compliance with the "Southern California Eelgrass Mitigation Policy" Revision 8 (except as modified by this special condition) adopted by the National Marine Fisheries Service and shall be prepared in consultation with the California Department of Fish and Game. The applicant shall submit the post-construction eelgrass survey for the review and approval of the Executive Director within thirty (30) days after completion of the survey. If any eelgrass has been impacted, the applicant shall replace the impacted eelgrass at a minimum 1.2:1 ratio on-site, or at another location, in accordance with the Southern California Eelgrass Mitigation Policy. All impacts to eelgrass habitat shall be mitigated at a minimum ratio of 1.2:1 (mitigation:impact). The exceptions to the required 1.2:1 mitigation ratio found within SCEMP shall not apply. Implementation of mitigation shall require an amendment to this permit or a new coastal development permit unless the Executive Director determines that no amendment or new permit is required.

6. Water Quality Management Plan

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, a detailed Water Quality/Best Management Practices (BMPs) Program for controlling adverse impacts to water quality related to long-term water-borne berthing of vessels in the marina. The plan shall be prepared by a qualified professional with expertise in the control of water quality impacts related to marinas.

1. The plan shall demonstrate that long-term water-borne berthing of vessels in the marina shall be managed in a manner which protects water quality and that persons using the marina are made aware of the rules related to boat maintenance and use. To the extent to which physical features or objects (trash containers, recycling bins) are required in the plan, an attached site plan shall show the location where these features or objects will be installed.
2. The plan shall include, at a minimum, the following components or measures:
 - (a) Boat Cleaning Management Measures:
 1. The marina shall prohibit in-water boat hull washing which does not occur by hand.;
 2. The marina shall prohibit in-the-water hull scraping or any process that occurs under water which results in the removal of paint from boat hulls;
 3. The marina shall ensure that marina tenants, when washing boats, utilize detergents and cleaning components that are phosphate-free and bio-degradable. Amounts used shall be minimized; and,
 4. The marina shall prohibit the use of detergents containing ammonia, sodium hypochlorite, chlorinated solvents, petroleum distillates or lye.
 - (b) Implementation of a solid waste reduction and recycling program including the following Solid Waste Management Measures:
 1. Containers for recyclables shall be provided and sited so that they are convenient for boaters (i.e. close to the dock); and,
 2. All trash and separate containers for recyclables, oil wastes, fish wastes, etc. shall be clearly marked, have the capacity to handle all waste streams, and be sited so that they are convenient for boaters (i.e. close to the dock).
 3. All solid waste, including sewage, shall be properly disposed of only at appropriately designated facilities.
 - (c) Implementation of a liquid material control program which provides and maintains appropriate storage, transfer, containment and disposal facilities for liquid materials commonly used in boat maintenance including the following Liquid Waste Management Measures:

1. The marina shall provide a secure location to store hazardous wastes, including petroleum products, old gasoline or gasoline with water, absorbent materials, and oily rags;
2. Containers for anti-freeze, lead acid batteries, used oil and used oil filters which will be collected separately for recycling shall be provided by the marina;
3. Signage shall be placed on all regular trash containers to indicate that hazardous wastes may not be disposed of in the container. The containers shall notify boaters as to how to dispose of hazardous wastes and where to recycle certain recyclable wastes; and

(d) Petroleum Control Management Measures:

The marina shall make available to boaters a service that reduces oily discharges from in-board engines. The marina's environmental policies shall encourage boaters to regularly inspect and maintain engines, lines and hoses in order to prevent oil and fuel spills. These policies shall encourage boaters to use preventive engine maintenance, oil absorbents, bilge pump-out services, or steam cleaning services as much as possible to clean oily bilge areas. The use of soaps that can be discharged by bilge pumps shall be discouraged.

(e) Public Education Measures:

In addition to these specific components outlined in Special Condition 5.2(a) through (d) above, the BMP program shall also include enforcement which may include eviction from the marina. The marina shall provide information about all of the measures in the BMP program through a combination of signage, tenant bill inserts and distribution of the BMP program to new tenants and each year to repeat tenants. The program shall be posted at the Dockmaster's Office/Administration Building and at all dock entrances, and be included and attached to all slip lease agreements.

7. Marina Inspection and Maintenance Program

The permittee shall exercise due diligence in periodically inspecting the marina facility that is subject to this coastal development permit. The permittee shall immediately remove or undertake any repairs necessary to maintain the structural integrity of the docks, pilings and utility connections, and to ensure that pieces of unattached plastic or other debris do not enter the environment. On a revolving five year basis, following the date that the first dock is installed, the permittee shall conduct an inspection of the marina to ensure the integrity of the docks, pilings and utility connections, and that all corrective actions have or will be immediately undertaken to maintain the integrity of the facility. The inspections shall be undertaken by boat, during periods of extreme low tides. All periodic reports shall be submitted to the Executive Director for review and approval. If the inspections confirm that the use of the plastic or other material used in the marina is damaging marine resources, the use of such materials shall be stopped, as more environmentally friendly products are developed.

8. Resource Agencies

The permittee shall comply with all requirements, requests and mitigation measures from the California Department of Fish and Game, Regional Water Quality Control Board, U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service with respect to preservation and protection of water quality and marine environment. Any change in the approved project that may be required by the above-stated agencies shall be submitted to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations.

9. Tree Trimming/Removal

The removal and/or trimming of trees shall not interfere with or disrupt any active birds' nests, and shall comply with the 1918 Migratory Bird Treaty Act.

10. Public Access To and Along the Shoreline

The applicant and the development shall not interfere with public access along the shoreline in the project area (except for the temporary disruptions that may occur during the completion of the permitted development).

11. Parking Management

Parking on Mole C, beyond the Portofino gatehouse entry, shall be available for a fee to the general public for use on a first-come, first-served basis. The applicant may grant hotel guests, restaurant guests, and Rocky Point (concession) customers discounted parking rates and/or parking validations. The applicant may issue parking passes to boaters with the rental or lease of a slip within the Portofino Marina. The applicant may set aside a portion of the parking reservoir in order to provide for valet or assisted parking, so as to increase the total capacity of the parking reservoir. Fees for any valet or assisted parking shall be the same as for self-parking. Signage at the gatehouse entry shall remain posted to clearly communicate the availability of public parking and the rates charged for parking, consistent with the applicant's "Portofino Parking Procedures" statement attached as **Exhibit #14 of the 12/22/05** staff report.

12. Parking Lot Drainage Plan

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, a drainage plan for the surface parking areas that incorporates structural and non-structural Best Management Practices (BMPs) to: a) reduce the volume of runoff leaving the parking lot site, b) control the velocity at which the runoff enters the storm water drains, and c) reduce the amount of pollutants contained in the runoff leaving the parking lot site prior to entering the storm drain system. The drainage plan shall be designed to treat, infiltrate or filter the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, and/or the 85th percentile, one-hour storm event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs. The drainage plan shall incorporate, but not be limited to, the following suggested BMPs: landscaped buffers, catch basins to collect litter, trash racks or bars to

filter runoff, grease and oil separators or filters which will aid in the removal of dissolved contaminants, provisions for regular scheduled cleaning of paved parking lot surfaces and catch basins at least once a year between September 15 and October 15, and maintenance of structural and non-structural BMPs as necessary. The drainage plan may include other measures as well. The permittee shall implement the approved drainage plan on an ongoing and permanent basis in a manner consistent with the drainage plan approved by the Executive Director. In addition, any lease or operating agreement that involves the proposed parking lot shall explicitly incorporate the provisions of the drainage plan approved by the Executive Director.

13. Assumption of Risk

By acceptance of this permit, the applicant, on behalf of a) itself; b) its successors and assigns and c) any other holder of the possessory interest in the development authorized by this permit, acknowledges and agrees i) that the site may be subject to hazards from waves, storm waves, flooding and erosion; ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards; and v) to agree to include a provision in any subsequent sublease or assignment of the development authorized by this permit requiring the sublessee or assignee to submit a written agreement to the Commission, for the review and approval of the Executive Director, incorporating all of the foregoing restrictions identified in i through v.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit a copy of a lease agreement, in a form and content acceptable to the Executive Director, between the applicant and the City of Redondo Beach, incorporating all of the above terms of this condition.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description and Background

The proposed project involves development both in the water (marina reconstruction) and on filled tidelands (hotel and parking lot renovations) in the City of Redondo Beach. The project site is a leasehold property situated at the end of Mole C in King Harbor (Exhibit #3). The City of Redondo Beach administers the leasehold on behalf of the State of California pursuant to the Tidelands Grant of 1915.¹ The City, as landlord, has leased the entire project site to the applicant.

The existing leasehold uses, most of which were established prior to the effective date of the Coastal Act (February 1973), are comprised of a 232-slip recreational boating marina, a three-story, 163-room hotel (Portofino Hotel), a three-story, 21-unit apartment building (managed as part of the Portofino Hotel), an 8,551 square foot conference center (the Portofino Hotel's main ballroom), a three-level restaurant (Breakwater Restaurant), a 661 square foot convenience store/bait shop and marine fuel station (Rocky Point), a gatehouse at the Mole C entry road, and paved parking for 369 automobiles (Exhibit #8).

The Commission has reviewed and approved previous development projects on this site, including an expansion of the hotel and the construction of its detached main ballroom in 1987. On September 11, 1987, the Commission approved with conditions Coastal Development Permit 5-87-371 (Portofino Partners) for a new 8,700 square foot restaurant (now used as the hotel's main ballroom), a 32-room addition to the Portofino Hotel (172 total rooms permitted), the gatehouse entry, and other leasehold improvements on Mole C. The Commission imposed several special conditions to protect public access and recreational opportunities on Mole C (See Section C). Coastal Development Permit 5-87-371 was issued on November 22, 1988.

Mole C withstood extensive damage and erosion during a major storm event in January 1988. To repair the storm damage and to protect the Portofino leasehold area from future storm wave damage, the Commission on October 14, 1988 approved Coastal Development Permit 5-88-697 (City of Redondo Beach) for the construction of a four-foot high "Galveston style" concrete splash wall along the western perimeter of Mole C. The approved splash wall was constructed as proposed, although the coastal development permit was never issued. The one special condition of approval required the City to acknowledge that the project site may be subject to extraordinary hazard from erosion and wave action and to assume the risks of the development.

1. Marina Reconstruction

The currently proposed marina reconstruction, which would replace the old and deteriorating docks in consecutive phases, is necessary to bring the marina facilities into a safe and operable condition. The applicant asserts that some of the old docks are on the verge of being condemned by the City as being unsafe. The proposed marina reconstruction plan, which affects all the docks in the Portofino Marina (except for Dock G), would reduce the total

¹ The City asserts that the State removed a portion of the site (21-unit apartment building) from the public trust in 1971 pursuant to SB No. 1461.

number of slips from 232 to 179 (See Section C and Exhibits #6&7). Dock G was reconstructed recently pursuant to Coastal Development Permit 5-02-329 (Portofino Partners), which the Commission approved on December 10, 2002.

Docks A through E are proposed to be removed and replaced in the same footprint, one at a time, so as to limit the number of vessels that are displaced by the project. The applicant estimates that it will take about nine months to complete the proposed marina reconstruction. The existing docks, which consist of wood and styrofoam, will be removed and disposed of at the Puente Hills landfill in Whittier. The new docks, concrete-walled and polystyrene-filled, will be floated in and attached to the existing marina's concrete piles. The old gangways, ramps and security gates will also be replaced, and the utilities for each individual slip (water, power, cable television, telephone and fire suppression; no sewer) will be upgraded. A new marginal walk (floating dock) is proposed between Dock E and Dock D, so that Dock D would no longer have its own gangway and security gate (Exhibit #7, p.1). The new marginal walk, which requires three new piles, would also provide additional area for dinghy storage.

Dock F will be completely demolished and reconfigured in order to provide longer slips (38-50 feet) instead of shorter slips (20-30 feet). The proposed Dock F reconfiguration would reduce by 53 the total number of slips in the marina. A new eighty-foot long gangway and a pile-supported platform are proposed in order to provide improved (American Disability Act compliant) access to Dock F. The proposed Dock F reconstruction requires the removal of 23 existing piles and the installation of 34 new piles.

The currently proposed project includes no changes to the slips in Dock G, the storage sheds along the marina's vertical seawall, or to the three fueling docks (which are part of the concession known as "Rocky Point") located at the northwest end of the project site (Exhibit #8). No dredging is proposed.

2. Hotel and Parking Lot Renovation

The portion of the site situated on filled tidelands is developed with a three-story, 163-room hotel (Portofino Hotel), a three-story, 21-unit apartment building (managed as part of the Portofino Hotel), an 8,551 square foot conference center (the Portofino Hotel's main ballroom), a three-level restaurant (Breakwater Restaurant), a 661 square foot convenience store/bait shop (Rocky Point), and paved parking for 369 automobiles (Exhibit #8).

The proposed project includes the renovation of the existing hotel facilities and the parking areas that serve all the uses on the site. The surface parking areas and the access road to the project site would be reconfigured in order to provide wider vehicular accessways for the City of Redondo Beach Fire Department (Exhibits #9&10). Some existing parking would be displaced in order to create a new hotel meeting room and a pad for a new hotel swimming pool. New filtered drains and landscaping would also be installed in and around the paved areas. The project, as currently proposed, would reduce the total number of parking stalls from 369 to 322.

The interior and exterior improvements that are proposed for the existing 163-room hotel and 21-unit apartment building would add aesthetic and architectural enhancements, but would not change the number of rooms or the height of the buildings (Exhibit #11). Half of a twenty-stall carport attached to the apartment building is proposed to be demolished and replaced by a

new 927 square foot hotel meeting room. The parking lot landscaping and the outdoor areas of the hotel would also be renovated, and a new water fountain would be installed in the roundabout proposed in front of the entrance to the hotel lobby. Twenty-three trees would be relocated. No changes are proposed for the 8,551 square foot conference center (the Portofino Hotel's main ballroom), the Breakwater Restaurant, or the Rocky Point convenience store/bait shop.

B. Marine Resources

The Coastal Act contains policies that address development in or near coastal waters. The proposed marina reconstruction project is located in and over the coastal waters of King Harbor in the City of Redondo Beach (Exhibit #2). The waters of King Harbor surround Mole C and receive the runoff from the portion of the leasehold where the hotel and parking lot improvements are proposed.

The standard of review development proposed in coastal waters and on State Tidelands is the Chapter 3 policies of the Coastal Act, including the following marine resource policies. Sections 30230 and 30231 of the Coastal Act require the protection of biological productivity, public recreation and marine resources.

Section 30230 of the Coastal Act states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30240 of the Coastal Act, which protects sensitive habitat areas, states:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which

would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.

The Commission recognizes that chemical pollution and siltation adversely affect water quality, biological productivity and coastal recreation. The proposed work is located within and adjacent to a marina that supports both sensitive species and recreational activities.² Therefore, it is important that the work be performed in a manner that avoids or minimizes adverse impacts to water quality and marine resources. In order to minimize adverse impacts, the Commission imposes conditions on the permit to address the prevention of siltation, spills and pollution in the proposed development.

1. Construction Impacts to Water Quality

The proposed project is the disassembly of an existing marina and construction of a new marina. The surface parking area that serves the project area is also being demolished and reconstructed. Due to the proposed project's location on and adjacent to the water, the proposed work may have adverse impacts upon water quality and the marine environment.

The proposed marina reconstruction project was submitted to the California Department of Fish and Game (DFG) for its review and approval. In the DFG review, it determined that marine environment would not be adversely affected by the proposed marina reconstruction project if the applicant implements proposed best management practices to reduce adverse impacts to water quality and marine organisms (Exhibit #12). The best management practices include the use of turbidity screens/siltation curtains to isolate work area during pile removal and installation, floating booms to contain debris or spills, recovery of any non-buoyant debris by divers as soon as possible after loss. The Commission finds that since construction of the proposed project requires the use of best management practices to minimize impacts upon water quality, the Commission imposes **Special Condition Three** requiring the applicant to utilize best management practices including those described above.

Special Condition Three also prohibits the improper storage of construction equipment and materials during construction, which can contribute to water quality impacts. Therefore, the Commission finds it necessary to impose the following other construction related restrictions: all construction materials and equipment shall be stored landward of the bulkhead, on impervious surfaces only; all construction materials or waste shall be stored in a manner which prevents their movement via runoff, or any other means, into coastal waters; and that any and all construction equipment, materials and debris are removed from upland areas at the conclusion of construction. In addition, demolition of existing structures will generate debris that will need to be disposed of off-site. The applicant has identified a disposal site outside of the coastal zone (Puente Hills landfill in Whittier). Only as conditioned to protect the marine habitat from adverse water quality impacts does the proposed project comply with the marine resource provisions of the Coastal Act.

2. Post Construction Water Quality Plan

The Coastal Act requirements to protect the biological productivity and quality of coastal waters do not end after the proposed project is constructed. The proposed development must also be maintained in a manner that sustains water quality and the adjacent marine habitat

² Essential Fish Habitat Assessment for Portofino Marina, by JNE & Associates, Inc. 1/10/2005.

areas. To this end, runoff from the proposed parking areas should be filtered so that polluted runoff from the parking areas does not negatively impact water quality and the adjacent marine habitat areas. Runoff from parking areas usually contains grease, gasoline and oil residue, particles of brake linings and trash. These pollutants, if directed into coastal waters, will negatively impact marine habitats and recreational activities by lowering water quality.

In this case, runoff from the site will be directed to the marina's storm drains. The storm drains drain directly into the waters of the harbor. The runoff from the storm drains is not treated and contributes to lower water quality. Therefore, the proposed reconstruction of the surface parking areas could contribute to poor water quality that puts marine resources at risk. To mitigate against the adverse effects of automobile pollutants being washed into the marina from the surface parking areas, the proposed project includes the installation of new filtered drains to filter out some of the pollutants which accumulate on the site. **Special Condition Twelve** requires the applicant to submit a parking lot drainage plan to demonstrate that the project meets the Commission's standard of being able to filter stormwater runoff from the parking areas up to the 85th percentile one-hour storm event. Only as conditioned to protect the marine habitat from adverse water quality impacts does the proposed project comply with the marine resource provisions of the Coastal Act. The use of best management practices in constructing and maintaining the project and its drains will reduce the amount of pollutants that leave the site and enter coastal waters.

In order to reduce water pollution in the marina that may result from day-to-day boating activities, the Commission imposes **Special Condition Six** requiring the applicant to provide a water quality management plan for daily boating operations to protect water quality within the marina. The marina will provide trash receptacles throughout the marina at dock entrances and large shore-side waste disposal dumpsters for boater use. Containers for recyclables (including used oil) will also be provided. The imposed conditions will ensure that the marina's water quality management plan complies with the Commission's water quality requirements for marina development. Only as conditioned to protect the marine habitat from adverse water quality impacts does the proposed project comply with the marine resource provisions of the Coastal Act.

3. Plastics in the Environment

The Commission is also concerned about the use of plastic in the marine environment due to the possible deterioration of the plastic floats and subsequent increase in marine debris. The proposed project involves the installation of new concrete-walled, polystyrene-filled floating docks (Exhibit #7, p.2). In a leach test of recycled plastic composite containing polyethylene, polypropylene, polystyrene, polyvinyl chloride, and other plastics, only minor amounts of copper, iron, and zinc leached from the plastic. None of the contaminants had a concentration significant enough to have any adverse effects on the marine environment. However, the Commission staff is concerned about the potential to add plastic debris to the marine environment due to cracking, peeling, and sloughing. Since plastic is an inorganic material, it does not biodegrade, but rather continually breakdown into ever-smaller pieces which can adversely effect the marine environment.

The presence of plastics in the coastal and ocean environment is both widespread and harmful to human and marine life. An article, written by Jose G.B. Derraik, entitled "The Pollution of the Marine Environment by Plastic Debris: A Review," reviews much of the literature published

on the topic of deleterious effects of plastic debris on the marine environment. The article states:

The literature on marine debris leaves no doubt that plastics make-up most of the marine litter worldwide.³

In support of this statement, the article includes a table that presents figures on the proportion of plastics among marine debris around the world. In most of the locations listed on the table, plastics represented more than fifty percent of the total marine debris found.⁴ In other studies, the percentage is even higher.

Existing studies clearly demonstrate that plastic debris creates problems for marine life. Plastic marine debris affects at least 267 species worldwide, including 86% of all sea turtle species, 44% of all sea bird species, and 43% of marine mammal species.⁵ For example, plastics cause significant adverse impacts in seabirds, when birds mistakenly ingest the plastic debris. A study performed in 1988, concluded that seabirds consuming large amounts of plastics reduced their food consumption, which limited their ability to lay down fat deposits and in turn reduced fitness. In addition, ingesting plastics can block gastric enzyme secretion, diminish feeding stimulus, lower steroid hormone levels, delay ovulation, and cause reproductive failures.⁶

Plastic debris that has settled on the seabed floor also harms the biological productivity of coastal waters. In Derriak's article, he states:

The accumulations of such [plastic] debris can inhibit gas exchange between the overlying waters and the pore waters of the sediments, and the resulting hypoxia or anoxia in the benthos can interfere with the normal ecosystem functioning, and alter the make-up of life on the sea floor. Moreover, as for pelagic organisms, benthic biota is likewise subjected to entanglement and ingestion hazards.⁷

The floating docks proposed for the marina reconstruction are not encased in plastic, but in concrete shells. Concrete floats consist of a plastic core encased in a concrete shell. The plastic filled core is generally polystyrene, which is also used in plastic floats. Nonetheless, the potential exists that this and other plastics used in the marina would degrade over time. Piles and fenders use plastic for protection and are constantly subject to abrasive forces from boats and ships. If the plastics were to become brittle, they may splinter or chip upon impact and would introduce plastic debris into the coastal waters, and thus would adversely affect water quality resources.

Because of the potential for pieces of unattached plastic to enter into the marine environment (including polystyrene from damaged floats) due to damage or degradation, the docks must be routinely inspected to ensure that the facility is being maintained in an environmentally safe

³ Derraik, Jose. "The Pollution of the Marine Environment by Plastic Debris; A Review", *Marine Pollution Bulletin*, 44: 842-852, 2002.

⁴ Ibid.

⁵ Laist, D. W. "Impacts of Marine Debris: Entanglement of Marine Life in Marine Debris Including a Comprehensive List of Species with Entanglement and Ingestion Records", Coe, J.M., Rogers, D.B. (Eds.)

⁶ Derraik, Jose. "The Pollution of the Marine Environment by Plastic Debris; A Review", *Marine Pollution Bulletin*, 44: 842-852, 2002.

⁷ Ibid.

operating condition and so that any damaged or degraded pieces are replaced in a timely manner. To minimize the potential of pieces of plastic from entering the water due to damage or deterioration of the docks, **Special Condition Seven** requires that all docks must be inspected at least every five years. If monitoring confirms that the use of the plastic in the marina is damaging marine resources, the use of such materials shall be stopped, as more environmentally friendly products are developed. Therefore, only as conditioned does the Commission find that the proposed project conforms with the marine resource provisions of the Coastal Act.

4. Pump-out Station

The existing marina does not have its own sewage pump-out station, and the proposed project does not include the installation of a pump-out station. Currently, according to the applicant, all of the boaters in King Harbor have access to a pump-out station located next to the Harbor Patrol near the harbor entrance (Exhibit #3).

5. Sensitive Species Impacts – Toxic Algae

A non-native and invasive aquatic plant species, *Caulerpa taxifolia* (herein *C. taxifolia*), has been discovered in parts of Southern California. *C. taxifolia* is a tropical green marine alga that is popular in the aquarium trade because of its attractive appearance and hardy nature. In 1984, this seaweed was introduced into the northern Mediterranean Sea. From an initial infestation of about one square yard it grew to cover about two acres by 1989, and by 1997, blanketed about 10,000 acres along the coasts of France and Italy. Genetic studies demonstrated that those populations were from the same clone, possibly originating from a single introduction. This seaweed spreads asexually from fragments and creates a dense monoculture displacing native plant and animal species. In the Mediterranean Sea, it grows on sand, mud and rock surfaces from the very shallow subtidal to about 250 feet depth. Because of toxins in its tissues, *C. taxifolia* is not eaten by herbivores in areas where it has invaded. The infestation in the Mediterranean Sea has had serious negative economic and social consequences because of impacts to tourism, recreational diving and commercial fishing.

Because of the grave risk to native habitats *C. taxifolia* was designated a prohibited species in the United States in 1999 under the Federal Noxious Weed Act. In 2001, AB 1334 made it illegal in California for any person to sell, possess, import, transport, transfer, release alive in the state, or give away without consideration various *Caulerpa* species including *C. taxifolia*.

In June 2000, *C. taxifolia* was discovered in Aqua Hedionda Lagoon in San Diego County, and in August of that year an infestation was discovered in Huntington Harbor in Orange County. Genetic studies show that this is the same clone as that released in the Mediterranean. Other infestations may occur. Although a tropical species, *C. taxifolia* has been shown to tolerate water temperatures down to at least 50°F. Although warmer Southern California habitats are most vulnerable, until better information is available, it must be assumed that all shallow water marine habitats in California are at risk of infestation.

In response to the threat that *C. taxifolia* poses to California's marine environment, the Southern California *Caulerpa* Action Team, SCCAT, was established to respond quickly and effectively to the discovery of *C. taxifolia* infestations in Southern California. The group consists of representatives from several State, federal, local and private entities. The goal of SCCAT is to locate and completely eradicate all *C. taxifolia* infestations.

The project area was surveyed for eelgrass and *C. taxifolia* on December 23, 2004 and no *C. taxifolia* was found.⁸ So far, *C. taxifolia* has not been found anywhere in the Redondo Beach area. However, to ensure that *C. taxifolia* is not present in the project area before the permitted marina project commences, DFG and **Special Condition Four** require the applicant to survey the project area again no earlier than ninety days nor later than thirty days prior to commencement or re-commencement of any development authorized under this coastal development permit (Exhibit #12, p.2). Only as conditioned does the Commission find that the proposed project conforms with the marine resource provisions of the Coastal Act.

6. Sensitive Species Impacts – Eelgrass

Eelgrass (*Zostera marina*) is an aquatic plant consisting of tough cellulose leaves which grows in dense beds in shallow, subtidal or intertidal unconsolidated sediments. Eelgrass is considered worthy of protection because it functions as important habitat and foraging area for a variety of fish and other wildlife, according to the Southern California Eelgrass Mitigation Policy (SCEMP) adopted by the National Marine Fisheries Service (NMFS), the U.S. Fish and Wildlife Service (USFWS), and the California Department of Fish and Game (DFG). For instance, eelgrass beds provide areas for fish egg laying, juvenile fish rearing, and waterfowl foraging. Sensitive species, such as the California least tern, a federally listed endangered species, utilize eelgrass beds as foraging grounds.

The project area was surveyed for eelgrass and *C. taxifolia* on December 23, 2004 and no eelgrass beds were found. Therefore, the proposed project is not expected to adversely impact any eelgrass beds. However, eelgrass may have grown within the project area between the time the survey was conducted in 2004 and commencement of construction. In order to ensure that the development does not impact any eelgrass beds, DFG recommends that the applicant conduct another eelgrass survey before the work commences and during the active growth phase for the vegetation that occurs March through October (Exhibit #12, p.2). Therefore, **Special Condition Five** require the applicant to survey the project area again during the active growth phase no earlier than ninety days nor later than thirty days prior to commencement or re-commencement of any development authorized under this coastal development permit. If any eelgrass is found that would be impacted by the proposed project, the applicant is required to apply for an amendment to this coastal development permit. If eelgrass is present in the project area, adverse impacts from the proposed project could result and measures to avoid or minimize such potential impacts must be in place in order for the project to conform with the Southern California Eelgrass Mitigation Policy and Section 30230 of the Coastal Act. Only as conditioned does the Commission find that the proposed project conforms with the marine resource provisions of the Coastal Act.

7. Fill of Coastal Waters

The proposed project includes the removal of 23 old piles and the installation of 37 new concrete piles in the marina. The 37 new piles constitute fill of open coastal waters. The net increase in the number of piles is fourteen which constitutes approximately fifteen square feet of new fill in open coastal waters. Under Section 30233 of the Coastal Act, fill of open coastal waters is only allowed when several criteria are met, including: a) the project must fall within

⁸ Eelgrass & Caulerpa Survey and Essential Fish Habitat Assessment for Portofino Marina, by EcoSystems Management Associates, Inc. 1/4/2005.

one of the allowable use categories specified; b) the proposed project must be the least environmentally damaging alternative; and c) feasible mitigation measures to minimize adverse environmental effects must be provided. Section 30233 of the Coastal Act states, in part:

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

(4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.

The proposed project meets the first criteria (allowable use) because it is for a public boating facility. Fill of open coastal waters for the construction of a public boating facility is an allowable use under Section 30233(a)(4) of the Coastal Act.

Next, the proposed project must be the least environmentally damaging alternative. The proposed project is the replacement of a boating marina in a different configuration. Alternatives to the proposed project include no project, no change to the existing configuration, or a change to the proposed configuration. Under the no project alternative, the applicant could only pursue simple maintenance repair activity. However, simple maintenance repair could not feasibly repair the docks, nor bring them up to present engineering and safety standards, or ADA requirements. Simple maintenance would slow, but not prevent further deterioration of any damaged docks. In addition, marine habitat would not significantly benefit from the no project alternative since this alternative would necessitate that the structure remain in place. Continued, safe use of the facility for marine recreational purposes would be precluded without replacement of the dock system.

The second alternative, replacement of the project in the same configuration, would eliminate the need for additional pilings. However, current engineering and safety standards, ADA requirements and Department of Boating and Waterways criteria, would result in the loss of some slips. The applicant is also proposing the new marina configuration in order to provide longer slips (30 feet and longer) that are in greater demand than short (20-to-25-foot) slips. The applicant asserts that the additional piles are necessary to build the proposed alternative and to meet current engineering and safety standards, ADA requirements and Department of Boating and Waterways criteria.

Under the proposed alternative, the dock and pile layout is changing from the existing layout. However, the number of proposed pilings is the minimum necessary to adhere to present engineering standards. Placement of the proposed piles in conjunction with the proposed project will displace a small amount of sandy bottom habitat (about fifteen square feet), although a survey of the project site found no eelgrass. Vertical concrete piles are known to provide a vertical substrate for mollusks and other marine organisms. The proposed project will increase the quantity of vertical substrate upon which mollusks and other marine organisms may settle. Thus, adequate mitigation is provided by the proposed project in that the loss of bottom habitat is offset by the fact that the pilings themselves will provide new

vertical subtidal and intertidal habitat for marine organisms. No long-term adverse impact will occur to this habitat as a result of the proposed fourteen additional concrete piles.

The proposed project will result in the fill of open coastal waters for a boating facility, which is an allowable use under Section 30233 of the Coastal Act. The proposed project is the least environmentally damaging, feasible alternative, and includes feasible mitigation measures, such as the use of silt curtains during pile removal and driving to limit turbidity and to minimize adverse environmental effects. Therefore, the Commission finds the proposed project is consistent with Section 30233 of the Coastal Act.

8. Nesting Birds

The proposed parking lot renovation includes the relocation of twenty-three trees in the project area. Various species of herons and other birds often nest in palms and other trees near the water. **Special Conditions Nine** protects nesting birds from being disturbed by prohibiting the removal or trimming of trees with active birds' nests. All landscaping activities shall be conducted in a manner consistent with the protections set forth in the Migratory Bird Treaty Act of 1918. As conditioned, the Commission finds the proposed project is consistent with Section 30240(b) of the Coastal Act.

C. Public Access and Recreation

One of the basic goals stated in the Coastal Act is to maximize public access and recreation along the coast. The proposed project, as conditioned, will conform with the following Coastal Act policies that protect and encourage public access and recreational use of coastal areas.

Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211 of the Coastal Act states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30213 of the Coastal Act states, in part:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred...

As stated in the above public access policies, the Coastal Act requires that maximum access and recreational opportunities be provided for all people. The Coastal Act also protects the public's right to access the sea and encourages the development of recreational facilities.

Section 30224 of the Coastal Act states:

Increased recreational boating use of coastal waters shall be encouraged, in accordance with this division, by developing dry storage areas, increasing public launching facilities, providing additional berthing space in existing harbors, limiting non-water-dependent land uses that congest access corridors and preclude boating support facilities, providing harbors of refuge, and by providing for new boating facilities in natural harbors, new protected water areas, and in areas dredged from dry land.

Section 30234 of the Coastal Act states:

Facilities serving the commercial fishing and recreational boating industries shall be protected and, where feasible, upgraded. Existing commercial fishing and recreational boating harbor space shall not be reduced unless the demand for those facilities no longer exists or adequate substitute space has been provided. Proposed recreational boating facilities shall, where feasible, be designed and located in such a fashion as not to interfere with the needs of the commercial fishing industry.

Section 30252 of the Coastal Act states in part:

The location and amount of new development should maintain and enhance public access to the coast by. . . (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation...

Section 30224 of the Coastal Act states that recreational boating activities should be encouraged. Section 30234 of the Coastal Act states that recreational boating facilities shall be protected and upgraded. The proposed project, located within coastal waters and also between the nearest public road and the sea, involves a recreational boating facility. As proposed, the Portofino public boating marina would be completely reconstructed, with a portion of it (Dock F) being reconfigured to provide additional fifty-foot long and 38-foot long slips (Exhibits #6&7). The proposed marina reconstruction plan, which affects all the docks in the Portofino Marina except for Dock G, would reduce the total number of slips from 232 to 179. Dock G was reconstructed recently pursuant to Coastal Development Permit 5-02-329 (Portofino Partners), which the Commission approved on December 10, 2002.

The Portofino Marina is a privately operated facility with berthing slips available to the general public on a month-to-month basis for a fee. The proposed project does not include any proposed change to the method of leasing. Upon completion of the proposed development, the marina slip leases will remain available to the general public. However, consistent with the practice of most marinas statewide, for safety and security reasons, the general public will not be allowed to walk along the gangways, docks or slips. The general public will have access only to the public promenade, which will afford views of the boats and the water.

1. Mix of Slip Sizes

As stated above, the proposed project would reduce the total number of slips in the Portofino Marina from 232 to 179. Docks A through E would be rebuilt in the same configuration and with the same size slips as currently exist. Dock F, on the other hand, will be completely demolished and reconfigured in order to provide longer slips (38-50 feet) instead of shorter slips (20-30 feet). The proposed Dock F reconfiguration would reduce by 53 the total number of slips in the Portofino Marina.

The existing and proposed Portofino Marina slip size configuration is shown in the following table:

<u>Slip Length(ft.)</u>	<u>-30</u>	<u>30-34</u>	<u>35-39</u>	<u>40-49</u>	<u>50 +</u>	<u>Total</u>
Existing	66	82	30	39	15	232
Proposed	6	62	40	36	35	179
Change	-60	-20	+10	-3	+20	-53

The proposed project would result in ten new slips of 35-to-39 feet in length, and twenty new slips over fifty feet in length, all in the Dock F area of the project where the shorter slips would be removed (Exhibits #6&7). The Portofino Marina would lose sixty of the 66 existing slips under thirty feet in length, but no small boats will be displaced as a result of the project because there exists adequate space for smaller vessels elsewhere in King Harbor. In fact, the applicant states that most of the small slips in the Portofino Marina have already been vacated in preparation for the proposed reconstruction project. There are still some smaller slips available for lease elsewhere in King Harbor (26 vacancies), while there is a waiting list for the longer slips (Exhibit #5). Therefore, no one is known to be waiting to lease a slip shorter than thirty feet.

In the entire King Harbor, there are currently 1,453 slips, 701 (48%) of which are under thirty feet long (Exhibit #5). After the proposed reconfiguration of Portofino Marina Dock F, there would be 641 (46%) slips under thirty feet long in the entire King Harbor. The applicant asserts that this change of two percent in King Harbor is a minor change and consistent with the public's demand for slips longer than thirty feet.

If the cutoff between short slips and long slips is defined as 34 feet (instead of 29 feet), then the statistics show a large majority of all slips being shorter than long, as follows:

- In the existing Portofino Marina, 64% (148/232) of all slips are currently under 35 feet in length. In the proposed reconfigured Portofino Marina, 38% (68/179) of all slips would be under 35 feet in length.
- In the existing entire King Harbor, 75% (1,095/1,453) of all slips are currently under 35 feet in length. After the proposed reconfiguration of Dock F in the Portofino Marina, 73% (1,015/1,400) of all slips would be under 35 feet in length.

In prior actions, the Commission has been concerned about the trend towards longer slips (30 feet and longer) in marinas at the expense of the shorter (20-to-25-foot) slips. As longer slips

occupy more space in a marina, there is less space for the shorter slips and the result is fewer overall slips and fewer slips available for the owners of small vessels. As the trend for larger boats continues and marinas convert their small boat slips to larger slips, anchorage opportunities for the small boat owner will be reduced.

The Commission has heard testimony in other cases contending that reduction in the availability of slips to accommodate smaller boats reduces this option for those who want to own boats and use them, but cannot afford to lease the longer slips because they cost more than the shorter slips. The slip size distribution in King Harbor and other marinas is important in terms of recreational boater access since pricing is based on the size of the slip. Slip rates in Marina del Rey range from an average of approximately \$10.00 to \$16.00 per linear foot of dock. Rates for the existing Portofino Marina range from \$9.75 to \$14.50 per linear foot. With the elimination of some of the existing shorter slips, small boat owners could be forced to rent longer slips at higher rental rates, store their boats on land, or compete for the limited number of available shorter boat slips in the marina. Moreover, if the trend continues as noted above, small boat owners will not be able to find slips of a size that is appropriate for their boats.

While it is difficult to contend that recreational boating is in fact a lower cost recreational activity, in general, smaller boats less expensive, and therefore more available to a larger segment of the population than are larger boats. The Commission does not regulate the rates at which marinas rent their slips to the public. The Commission can, however, regulate the design of marina's in order to ensure that the redesigned slips conform to the public access and recreation policies of the Coastal Act by providing the correct balance between the size of slips and the boaters' demand for slips. Therefore, it is important to ensure that anchorages continue to provide a mix of slip lengths to provide a full range of boating opportunities for all boaters.

In 2001, the Commission approved Coastal Development Permit 5-01-143 for the reconstruction of a recreational marina within Marina del Rey that proposed to eliminate all 257 slips that were 18-to-25 feet in length. In that case, the Commission mandated that at least 25% of the total number of slips be 25 feet long (or less) in order to provide for the foreseeable demand for shorter slips in that particular location.

Boat ownership and boat recreation is based on a number of factors, including economics and population growth. As the economy and population in Southern California grows, it is likely that more people will purchase boats and seek slips in a local marina. The demand for slips of all sizes is likely to increase, while the supply of slips of any size will continue to be limited. The result of increased demand will be higher slip rental rates. The higher slip rental rates will cause the boaters at the lower end of the economic scale to relinquish their slips, which tend to be shorter because they own the less expensive shorter vessels. This is already the trend. The higher income boaters are much more likely to own a larger vessel and are better able to afford a longer slip.

In Southern California, the applicant asserts that the market trend indicates that the average length of new boats is increasing, and boaters need more longer slips to accommodate the newer, larger vessels. While the cost of recreational boating rises, the vacancy rates for shorter slips seem to be increasing. Thus, the demand for longer slips is increasing while the demand for shorter slips is decreasing. The data for King Harbor supports a need for fewer

short slips and additional slips that are thirty feet and longer. Although, slips of all sizes continue to be leased, and the number of vacancies is small for all slip sizes.

The proponents of the longer slips state that there is a greater demand now for the longer slips, and the demand for shorter slips has markedly declined as the size of the average vessel has grown over the years. The modification of slip size distribution is due to several factors. The existing marina was constructed over forty years ago, and new (or reconstructed) marinas are required to comply with the current Layout and Design Guidelines of the California Department of Boating and Waterways. The marina designers (Bellingham Marine) assert that it is difficult to incorporate into a marina redesign the current design requirements without reducing the number of slips in any given water space. Current standards require more water space within marina basins to be used for floating walkways, dock fingers, increased berth sizes, and greater fairway widths (area between interior channels and berths). Marinas have also been increasing berth sizes to accommodate wider boats in order to provide the greatest flexibility for berthing of various types of modern recreational boats (sailboats and power boats). Another factor is the design requirements imposed under the Americans with Disabilities Act (ADA), which requires wide docks and longer access ramps.

The applicant has indicated that the demand for the shorter slips has been declining locally and regionally over the past decade as the costs of recreational boating have risen. As part of Coastal Development Permit 5-01-143 for the reconstruction of a marina within Marina del Rey, a study prepared for the Los Angeles County Department of Beaches and Harbors, indicated that vacancies are generally higher for slips under 36 feet than for slips 36 feet and longer (*Marina Del Rey—Boat Slip Sizing and Pricing Study*, April 20, 2001). For Marina del Rey, the study indicated that the overall average vacancy was approximately 9%. In 2000, a Marina del Rey survey showed that the vacancy rate of slips less than 36 feet was approximately 7% while the vacancy rate for boats 36 feet and longer was less than 2%. The applicant has provided a slip survey for King Harbor that shows that there are no vacancies for slips longer than thirty feet, but 26 vacant slips under thirty feet (Exhibit #5).⁹

In this case, the proposed project will continue to provide a full range of slip sizes to meet the demands of boaters. The proposed project will include a mix of recreational boat slip lengths from 25 to fifty feet in length. Currently, there is an adequate supply of shorter slips in King Harbor (26 vacancies) to meet the demand. The distribution of boat slip lengths throughout the entire King Harbor will continue to provide slips for the small boat owner and the large boat owner. After the proposed reconfiguration of Dock F in the Portofino Marina, 73% (1,015/1,400) of all slips would be under 35 feet in length. Only 16% (228/1,400) of all the slips in King Harbor would be forty feet or longer (Exhibit #5).

The proposed upgrading of the Portofino Marina's docks will encourage recreational boating use of the marina. Therefore, the proposed project will enhance the anchorage and improve recreational boating in the King Harbor as a whole, while providing a balanced mix of slip sizes. The applicant has taken measures to minimize the impact due to displaced boats during construction, by phasing the dock replacements so that only one portion of the marina will be out of service at any one time. The applicant has also provided advance notice to the marina tenants and has been assisting tenants in finding available slips for relocation. Boats using the existing facility will have the opportunity to move to the other available slips during construction of each phase. There are no dry dock facilities in King Harbor, but there are other slip

⁹ The survey data, however, is not complete (Exhibit #5).

vacancies within other leaseholds. There is also one public boat hoist for small vessels that are stored out of the water. The impact to the supply of boat slips within the marina will be short-term and will not be significant. As proposed, the project will be consistent with Sections 30213, 30224 and 30234 of the Coastal Act.

2. Public Recreation – Mole C

Mole C, the leasehold that is subject to this permit application, is a large area of filled land in the center of King Harbor Marina (Exhibit #3). It is accessible by automobile via Portofino Way, and by boat via the main channel. Mole C is surrounded on three sides by water. Mole C provides a variety of public recreational opportunities, including: sightseeing, dining, wildlife (sea lions) viewing, strolling, boating, diving and fishing charters, and overnight accommodations. Kayaks and skiff rentals are available at the convenience store/bait shop known as Rocky Point, situated at the end of Mole C where the fuel docks for King Harbor are located (Exhibit #15). The diving and fishing charters, as well as whale watching cruises, depart from Rocky Point. No changes are proposed to Rocky Point and the public recreational opportunities offered by the concession, which is subleased by the applicant to an independent operator.

The public recreation amenities on Mole C were recognized and protected by the Commission in 1987 when it approved the renovation and expansion of the Portofino Hotel and the construction of a new restaurant, which is now being used as the hotel's main ballroom. Coastal Development Permit 5-87-371 (Portofino Partners), approved by the Commission on September 11, 1987 for a new restaurant, 32-room addition to the Portofino Hotel, a gatehouse entrance, and other leasehold improvements, imposed the following five special conditions:

1. Shoreline Access

Prior to issuance of the permit, the applicant (Portofino Partners) shall submit revised plans for the review and approval of the Executive Director. The plans shall incorporate the following criteria: No new building (restaurant) or structure shall be sited closer than fifteen feet to the top landward edge of the riprap.

2. Completion of the Walkway

The walkway shall be constructed concurrent with the development of the proposed buildings. The applicant shall agree that the walkway shall be completed and open to the use by the public at the time the hotel wing and new restaurant building is open for business.

3. Access Management Program

Prior to issuance of the permit, the applicant (Portofino Partners) shall submit an Access Management Program, for the review and approval of the Executive Director, which indicates the types and locations of public recreational uses available on Mole C. The program shall include the following criteria:

- a) Signs shall be posted in open areas, easily read by visitors. The information shall be directional, on types and locations of recreational activities. Signs shall be placed at reasonable intervals along the walk way and at each building complex.

- b) The size and design of signs shall be consistent with the standard municipal pole-type sign or a mix of sign types consisting of special graphics designed by the applicant which blend with the project's graphics and architecture.

4. Assumption of Risk/Waiver of Liability (See Permit)

5. Parking Plan

Prior to issuance of the permit, the applicant (Portofino Partners) shall submit for the review and approval of the Executive Director a parking plan demonstrating that the number of public parking spaces in the Harbor-Pier area will not be reduced as a result of the project. The required plan shall provide a program for valet service.

The walkway referred to in the above Special Condition Two is part of the public access system that provides pedestrian access around Mole C, except where the walkway does not exist on the western side of the mole between the Portofino Hotel and apartments (Exhibit #3). The public walkway provides access along the promenade atop western seawall of the Portofino Marina to the Rocky Point store and fuel docks. An open public accessway also exists around the main ballroom building that was approved as a restaurant pursuant to Coastal Development Permit 5-87-371. Hotel guests, but not the general public, are permitted in the narrow strip of land that exists between the hotel/apartments and the Mole C splashwall. Documents in the file for Coastal Development Permit 5-87-371 indicate that public access between the hotel and the seawall was limited prior to the effective date of Coastal Commission jurisdiction (February 1973). Public access on Mole C, where it is now available, way will continue to be available for public use as no changes are being proposed to the Mole C public access system.

The proposed project will not interfere with existing public access opportunities along the shoreline, except for the temporary disruptions that may occur during the completion of the permitted development. The applicant proposes to perform the proposed work in a manner that will allow public access along the water during the marina reconstruction and hotel and parking lot renovation. However, temporary closure to public access may be necessary at times to ensure safety.

Special Condition Ten prohibits the applicant and the development from interfering with public access along the shoreline in the project area, except for the temporary disruptions that may occur during the completion of the permitted development. Only as conditioned can the proposed project be found consistent with the public access and recreation policies of the Coastal Act.

3. Parking Supply and Management

Section 30252 of the Coastal Act requires that new development should maintain and enhance public access to the coast by providing adequate parking facilities or providing substitute means of serving the development with public transportation.

The certified LCP sets forth the following policy relating to public parking in the Harbor-Pier area, where the proposed development is located:

9. Existing public parking spaces in the Harbor-Pier area will not be reduced as a result of further development in the area. In the event of the removal of existing

public parking spaces in the Harbor-Pier area; additional spaces equal in number to those removed must be provided within the Harbor-Pier area.

The portion of the site situated on filled tidelands is developed with the 163-room hotel (Portofino Hotel), a 21-unit apartment building (managed as part of the Portofino Hotel), an 8,551 square foot conference center (the Portofino Hotel's main ballroom), a three-level restaurant (Breakwater Restaurant), a 661 square foot convenience store/bait shop (Rocky Point), and paved parking for 369 automobiles (Exhibit #8).

The proposed project includes the renovation of the existing hotel facilities and the parking areas that serve all the uses on the site. The surface parking areas and the access road to the project site would be reconfigured in order to provide wider vehicular accessways for the City of Redondo Beach Fire Department (Exhibits #9&10). The applicant is reducing the number of parking spaces, but the applicant has also reduced the demand for parking by reducing the number of slips. Even so both the City and the Commission have identified a parking deficit which the applicant proposes to remedy by instituting a parking management plan. The proposed project would reduce the total number of parking stalls by 47, from 369 to 322. The loss of the 47 parking stalls would result from the need to provide a wider vehicular access for the fire department, the demolition of half of the twenty-stall carport attached to the apartment building (loss of ten spaces), and the conversion of about eight stalls in the marina parking area to a pad for a future hotel swimming pool.

Using the municipal code's parking requirements, the City calculated that the existing uses on the project site, plus the proposed new uses (i.e. a new 927 square foot hotel meeting room), including the 232 proposed slips in the reconfigured marina, would require a total of 503 parking spaces (Exhibit #4). The 503 figure is 30 spaces less than the City's calculated demand for the existing uses (533 spaces). The lower parking calculation for the proposed project is less because the proposed reduction in the number of slips by 53 in the marina. The proposed parking lot plan provides 322 parking stalls.

The loss of parking caused by the need to provide a wider vehicular access for the fire department is necessary for public safety at the end of the mole. Portofino Way is the one and only road to the end of the mole, and it is important that the road be adequately wide with a turn-around for emergency vehicles. The proposed 927 square foot hotel meeting room and pad for a future hotel swimming pool in the existing parking area, however, is new development that would reduce the amount of existing parking by about eighteen spaces. The proposed meeting room would increase the parking demand on the site by ten spaces, while eliminating ten existing spaces.

Maintaining the existing public parking supply is an important component of the public access system in King Harbor. The parking must be available in order for boaters to access their vessel, for customers of the hotel and restaurant, for people utilizing the recreational opportunities provided at Rocky Point (kayak and skiff rentals), charter boat customers and for persons strolling and viewing the wildlife and seascape. The project site is located on State Tidelands where public access and recreational opportunities are mandated by the grant and the policies of the Coastal Act.

The certified LCP prohibits the reduction of public parking in the harbor area as the result of further development. The proposed 927 square foot hotel meeting room and the pad for a

hotel pool constitute new development that would reduce by about eighteen the number of existing public parking spaces on Mole C. Therefore, **Special Condition Two** requires the applicant to delete the proposed meeting room and swimming pool pad from the project in order to preserve existing public parking on the site. Only as conditioned does the proposed project conform with Section 30252 of the Coastal Act and the certified Redondo Beach LCP.

Even with the retention of the existing parking, the proposed project is about 153 spaces short of meeting the City's parking requirements. This deficit, however, can be accommodated through the use of shared parking for all the uses and the provision of valet parking to increase the parking lot capacity. The applicant states that the parking lot is rarely filled to capacity, and is filled only on the busiest days of summer (Exhibit #14). Parking data submitted by the applicant supports this contention. On such busy days, the hotel employees are asked to park offsite in order to make more space available in the parking lot. The Commission finds that the remaining parking deficit (with the revision required by Special Condition Two), which would not be worsened by new development, will not result in adverse impacts on public access and recreation if the parking supply is managed as proposed. Therefore, **Special Condition Eleven** requires the applicant to manage the public parking facility as follows:

Parking on Mole C, beyond the Portofino gatehouse entry, shall be available for a fee to the general public for use on a first-come, first-served basis. The applicant may grant hotel guests, restaurant guests, and Rocky Point (concession) customers discounted parking rates and/or parking validations. The applicant may issue parking passes to boaters with the rental or lease of a slip within the Portofino Marina. The applicant may set aside a portion of the parking reservoir in order to provide for valet or assisted parking, so as to increase the total capacity of the parking reservoir. Fees for any valet or assisted parking shall be the same as for self-parking. Signage at the gatehouse entry shall remain posted to clearly communicate the availability of public parking and the rates charged for parking, consistent with the applicant's "Portofino Parking Procedures" statement attached as **Exhibit #14 of the 12/22/05** staff report.

D. Visual Resources

Section 30251 of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas...

Section 30251 of the Coastal Act requires that the scenic and visual resources of coastal areas be considered and protected as a resource of public importance. In addition, public views to and along the ocean and scenic coastal areas shall be protected.

The interior and exterior improvements that are proposed for the existing 163-room hotel and 21-unit apartment building would add aesthetic and architectural enhancements, but would not change the number of rooms or the height of the buildings (Exhibit #11). The parking lot landscaping and the outdoor areas of the hotel would also be renovated, and a new water fountain would be installed in the roundabout proposed in front of the entrance to the hotel

lobby. Twenty-three trees would be relocated. No changes are proposed for the 8,551 square foot conference center (the Portofino Hotel's main ballroom), the Breakwater Restaurant, or the Rocky Point convenience store/bait shop.

The proposed project will not add significant building bulk to any structure and will not have any adverse impacts on public views of the pier from the shoreline. Therefore, the proposed project is consistent with Section 30251 of the Coastal Act.

E. Hazards

The Coastal Act states that new development must minimize risks to life and property and not create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area.

Section 30253 of the Coastal Act states, in part:

New development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

The proposed project will not create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. However, no development in the water can be guaranteed to be safe from hazard. All development located in or near the ocean have the potential for damage caused by wave energy, floods, seismic events, storms and erosion.

The proposed project is located in the Pacific Ocean and is susceptible to natural hazards. The Commission routinely imposes conditions for assumption of risk in areas at high risk from hazards. The condition of this permit (**Special Condition Thirteen**) ensures that the permittee understands and assumes the potential hazards associated with development in or near the water. Such knowledge is the first step towards the minimization of risks to life and property. As conditioned, the proposed project is consistent with Section 30253 of the Coastal Act.

F. California Environmental Quality Act (CEQA)

Section 13096 of the California Code of Regulations requires Commission approval of coastal development permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, in the form of special conditions, require a) maintenance of the marina; b) implementation of construction and debris removal responsibilities; c) conformance with post-construction best management practices; d) protection of public access; and e) the permittee's assumption of risk.

As conditioned, there are no feasible alternatives or additional feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and complies with the applicable requirements of the Coastal Act to conform to CEQA.

G. Local Coastal Program

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program (LCP) which conforms with Chapter 3 policies of the Coastal Act.

A coastal development permit is required from the Commission for the proposed development because it is located within the Commission's area of original jurisdiction. The Commission's standard of review for the proposed development is the Chapter 3 policies of the Coastal Act. The City of Redondo Beach certified LCP is advisory in nature and may provide guidance. The Commission certified the City of Redondo Beach certified LCP on September 11, 2003.

The certified LCP sets forth the following policies that are applicable to the proposed development:

2. The vacant 40,000 square foot parcel located on Mole C will be utilized for one or more of the following commercial recreation uses: motel/hotel, restaurant and/or specialty commercial. Any such development would also include a facility for the use of the general public such as a viewing structure or plaza.
9. Existing public parking spaces in the Harbor-Pier area will not be reduced as a result of further development in the area. In the event of the removal of existing public parking spaces in the Harbor-Pier area; additional spaces equal in number to those removed must be provided within the Harbor-Pier area.
10. Coastal dependent land uses will be encouraged within the Harbor-Pier area. The City will preserve and enhance these existing facilities and encourage further expansion of coastal dependent land uses, where feasible.

As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified LCP for the area.